

Senate Bill No. 1706

CHAPTER 184

An act to amend Sections 10113.5 and 10206 of the Insurance Code, relating to insurance.

[Approved by Governor July 18, 1998. Filed with
Secretary of State July 20, 1998.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1706, Johnston. Insurance.

Existing law regulating individual life insurance provides that the policy shall provide that it is incontestable, except for nonpayment of premiums and as otherwise provided, after it has been in force, during the lifetime of the insured, for a period of not more than 2 years from its date of issue. Existing law regulating group life insurance provides that the policy shall provide that the validity of the policy shall not be contested, except for nonpayment of premiums, after it has been in force for 2 years from its date of issue, and that no statement made by any employee insured under the policy relating to his or her insurability shall be used in contesting the validity of the insurance with respect to which the statement was made after the insurance has been in force prior to the contest for a period of 2 years during the employee's lifetime nor unless it is contained in a written application signed by the employee.

This bill would provide that, notwithstanding the above provisions, if photographic identification is presented during the application or enrollment process, and if an impostor is substituted for a named insured in any part of the application or enrollment process, with or without the knowledge of the named insured, then no contract between the insurer and the named insured is formed, and any purported insurance contract is void from its inception.

The people of the State of California do enact as follows:

SECTION 1. Section 10113.5 of the Insurance Code is amended to read:

10113.5. (a) An individual life insurance policy delivered or issued for delivery in this state shall contain a provision that it is incontestable after it has been in force, during the lifetime of the insured, for a period of not more than two years after its date of issue, except for nonpayment of premiums and except for any of the supplemental benefits described in Section 10271, to the extent that the contestability of those benefits is otherwise set forth in the policy or contract supplemental thereto. An individual life insurance policy,

upon reinstatement, may be contested on account of fraud or misrepresentation of facts material to the reinstatement only for the same period following reinstatement, and with the same conditions and exceptions, as the policy provides with respect to contestability after original issuance.

(b) (1) Notwithstanding subdivision (a), if photographic identification is presented during the application process, and if an impostor is substituted for a named insured in any part of the application process, with or without the knowledge of the named insured, then no contract between the insurer and the named insured is formed, and any purported insurance contract is void from its inception.

(2) As used in this subdivision:

(A) "Application process" means any or all of the steps required of a named insured in applying for a certificate under an individual policy of life insurance, including, but not limited to, executing any part of the application form, submitting to medical or physical examination or testing, or providing a sample or specimen of blood, urine, or other bodily substance.

(B) "Impostor" means a person other than the named insured who participates in any manner in the application process for a certificate under an individual life insurance policy and represents himself or herself to be the named insured or represents that a sample or specimen of blood, urine, or other bodily substance is that of the named insured.

(C) "Named insured" means the individual named in an application form for a certificate under an individual life insurance policy as the person whose life is to be insured.

(c) This section shall not be construed to preclude at any time the assertion of defenses based upon policy provisions that exclude or restrict coverage.

(d) This section shall not apply to individual life insurance policies delivered or issued for delivery in this state on or before December 31, 1973.

SEC. 2. Section 10206 of the Insurance Code is amended to read:

10206. (a) The policy shall provide that the validity of the policy shall not be contested, except for nonpayment of premiums, after it has been in force for two years from its date of issue; and that no statement made by any employee insured under the policy relating to his or her insurability shall be used in contesting the validity of the insurance with respect to which the statement was made after the insurance has been in force prior to the contest for a period of two years during the employee's lifetime nor unless it is contained in a written application signed by the employee.

(b) (1) Notwithstanding subdivision (a), if photographic identification is presented during the application or enrollment process, and if an impostor is substituted for a named insured in any

part of the application or enrollment process, with or without the knowledge of the named insured, then no contract between the insurer and the named insured is formed, and any purported insurance contract is void from its inception.

(2) As used in this subdivision:

(A) “Application or enrollment process” means any or all of the steps required of a named insured in applying for a certificate under a group policy of life insurance, including, but not limited to, executing any part of the application or enrollment form, submitting to medical or physical examination or testing, or providing a sample or specimen of blood, urine, or other bodily substance.

(B) “Impostor” means a person other than the named insured who participates in any manner in the application or enrollment process for a certificate under a group life insurance policy and represents himself or herself to be the named insured or represents that a sample or specimen of blood, urine, or other bodily substance is that of the named insured.

(C) “Named insured” means the individual named in an application or enrollment form for a certificate under a group life insurance policy as the person whose life is to be insured.

